UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,787	04/21/2004	Anthony D'Agostino	1744	5077

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AMIN, TUROCY & CALVIN, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

EXAMINER
MILLER, BRANDON J

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
12/12/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com
hholmes@thepatentattorneys.com
lpasterchek@thepatentattorneys.com

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/828,787	D'AGOSTINO ET AL.
	Examiner	Art Unit	
	BRANDON J. MILLER	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 August 2008*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-9,11-15,17-19 and 21-27* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,3-9,11-15,17-19 and 21-27* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *21 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment/Remarks

Disposition of Claims

I.   Claims 1, 3-9, 11-15, 17-19, and 21-27 remain pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

II.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.,* 383 U.S. 1,148 USPQ 459
(1966), that are applied for establishing a background for determining obviousness under 35
U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.

3.   Resolving the level of ordinary skill in the pertinent art.

4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

III.   Claims 1, 3-9, 11, 14-15, 17-19, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery, Jr. (US 6,205,343 B1) in view of Romans (US 6,564,074 B2).

Regarding claim 1 Montgomery, Jr. teaches a power management system for a wireless mobile terminal (see col. 4, lines 47-50). Montgomery, Jr. teaches a power management component that utilizes at least one power management scheme to selectively control power to at least one portion of the wireless mobile terminal while maintaining power to a central processing unit (CPU) and a network radio of the wireless mobile terminal to ensure reliable uninterrupted network communication while removing power from other portions of the wireless mobile terminal to reduce power consumption (see col. 4, lines 47-52 and col. 5, lines 1-7). Montgomery, Jr. does not specifically teach a configuration bank that stores power management schemes for a wireless mobile terminal and the power management component controls the power of the at least one portion of the wireless terminal by wirelessly transmitting one or more control signals to the network radio of the wireless mobile terminal. Romans teaches a configuration bank that stores power management schemes for a wireless mobile terminal (see col. 3, lines 15-20). Romans teaches the power management component controls the power of the at least one portion of the wireless terminal by wirelessly transmitting one or more control signals to the network radio of the wireless mobile terminal (see col. 3, lines 39-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a configuration bank that stores power management schemes and

controlling the power of the at least one portion of the wireless terminal by wirelessly

transmitting one or more control signals to the network radio of the wireless mobile terminal

because both Montgomery, Jr. and Romans teach managing power for wireless mobile terminals

that can both receive and transmit wireless signals.

Regarding claim 3 Montgomery, Jr. teaches a power management component that is

activated to remove power via one of: a time lapse; a period of inactivity; an event; a user

request; a programmatic application program interface (API); network data; an application, the

wireless mobile terminal, and another wireless mobile terminal (see col. 4, lines 60-67 and col. 5,

lines 1-7).

Regarding claim 4 Montgomery, Jr. teaches the power management component is

activated to resume power via one of: pressing a button; turning a key; touching an active touch

screen area; a programmatic control; voice; expiration of a timeout; a date; an electrical current;

a request; a signal; motion; a trigger; a link status change; a network keep alive; a proxy-ARP

packet; a re- authentication packet; a directed packet; wake-on-LAN request; and reception of

network data (see col. 3, lines 39-41 and col. 5, lines 1-7).

Regarding claim 5 Montgomery, Jr. teaches wherein the power management operates as a

background application (see col. 5, lines 1-7).

Regarding claim 6 Montgomery, Jr. teaches automatically executing the power

management scheme to reduce power consumption or waits for user confirmation (see col. 5,

lines 1-7).

Regarding claim 7 Montgomery, Jr. teaches the power management component executes in one of wireless mobile terminal BIOS, an application, an external device, and a wireless mobile terminal operating system (see col. 5, lines 1-7 and Fig. 1).

Regarding claim 8 Romans teaches the power management component utilizes one of intermittent and continuous polling of the wireless mobile terminal to automatically determine when power should be reduced and dynamically applies the power management scheme to reduce power reduced (see col. 4, lines 15-30 and col. 6, lines 10-33).

Regarding claim 9 Montgomery, Jr. teaches the power management scheme is based on at least one of a wireless mobile terminal characteristic, a state of one or more portions of the wireless mobile terminal, a user identified configuration, and a user attribute (see col. 4, lines 60-67 and col. 5, lines 1-7).

Regarding claim 11 Montgomery, Jr. teaches the power management scheme is one of a default, a user defined, an application generated and an intelligence created configuration (see col. 4, lines 60-67 and col. 5, lines 1-7).

Regarding claim 14 Montgomery, Jr. teaches a method that manages power for a portable terminal (see col. 4, lines 47-50). Montgomery, Jr. teaches removing power from a first portion of the portable terminal to reduce battery power consumption; maintaining reliable uninterrupted portable terminal network connectivity at least by supplying full power to a central processing unit (CPU) and a network radio (see col. 4, lines 47-52 and col. 5, lines 1-7). Montgomery, Jr. teaches receiving indicia that power should be supplied to a second portion of the portable terminal and supplying power to the second portion of the portable terminal (see col. 4, lines 36-41). Montgomery, Jr. does not specifically teach receiving indicia from a remotely located

power manager indicating power should be removed from a first portion of the portable terminal
and wirelessly receiving indicia from the remotely located power manager to the network radio
indicating that power should be supplied to a second portion of the portable terminal. Romans
teaches receiving indicia from a remotely located power manager indicating power should be
removed from a portable terminal and wirelessly receiving indicia from the remotely located
power manager to a network radio indicating that power should be supplied to a portion of the
portable terminal (see col. 3, lines 39-50 and col. 4, lines 1-30). It would have been obvious to
one of ordinary skill in the art at the time the invention was made to make the device adapt to
include receiving indicia from a remotely located power manager indicating power should be
removed from a first portion of the portable terminal and wirelessly receiving indicia from the
remotely located power manager to the network radio indicating that power should be supplied to
a second portion of the portable terminal because both Montgomery, Jr. and Romans teach
managing power for wireless mobile terminals that can both receive and transmit wireless
signals.

Regarding claim 15 Montgomery, Jr. teaches obtaining a power management
configuration that defines a power removal scheme (see col. 4, lines 60-67 and col. 5, lines 1-7).

Regarding claim 17 Montgomery teaches activating a power management utility via one
of: a time lapse; a period of inactivity; an interrupt; an event; a user request; a programmatic
application program interface (API); network data; an application, the wireless mobile terminal,
and another wireless mobile terminal; pressing a button; turning a key; touching an active touch
screen area; a programmatic control; voice; expiration of a timeout; a date; an electrical current;
a request; a signal; motion; a trigger; a link status change; a network keep alive; a proxy-ARP

packet; a re-authentication packet; a directed packet; wake-on-LAN request; and reception of network data terminal (see col. 4, lines 60-67 and col. 5, lines 1-7).

Regarding claim 18 Romans teaches returning power to the portion of the portable terminal upon receiving a signal from a wake event comprising one of a link status change, a network keep alive, a proxy-ARP packet, and a re-authentication packet (see col. 4, lines 15-30 and col. 6, lines 10-33).

Regarding claim 19 Montgomery, Jr. teaches a power management method that facilitates distribution of power to portions of a wireless communicating device (see col. 4, lines 47-50). Montgomery, Jr. teaches retrieving an associated power management scheme; employing the power management scheme to remove power from the portion of the wireless computing device while sustaining full power to the wireless computing device's central processing unit (CPU) and network radio to provide an uninterrupted channel of communication with a network (see col. 4, lines 47-52 and col. 5, lines 1-7). Montgomery, Jr. does not specifically teach employing one of intermittent and continuous polling of the wireless computing device via the network radio to automatically detect when power should be reduced. Romans teaches employing one of intermittent and continuous polling of the wireless computing device via the network radio to automatically detect when power should be reduced (see col. 6, lines 10-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include employing one of intermittent and continuous polling of the wireless computing device via the network radio to automatically detect when power should be reduced because both Montgomery, Jr. and Romans teach managing power for wireless mobile terminals that can both receive and transmit wireless signals.

Regarding claim 21 Mongomery, Jr. teaches dynamically adjusting the power applied to the at least one portion of the wireless computing device (see col. 4, lines 60-67 and col. 5, lines 1-7).

Regarding claim 22 Montgomery, Jr. teaches drawing less power from a battery utilized to power the wireless computing device (see col. 4, lines 60-67 and col. 5, lines 1-7).

Regarding claim 23 Montgomery, Jr. and Romans teach a device as recited in claim 11 and is rejected given the same reasoning as above.

Regarding claim 24 Montgomery, Jr. teaches employing intelligence to facilitate managing the power applied to the at least one portion of the wireless computing device (see col. 3, lines 39-41 and col. 5, lines 1-7).

IV.   Claims 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery, Jr. (US 6,205,343 B1) in view of Romans (US 6,564,074 B2) and Hetzler (US 5,954,820).

Regarding claim 12 Montgomery, Jr. and Romans teach a device as recited in claim 1 except for an intelligence created configuration that is generated based on at least one of machine learning, a statistic, a probability, an inferences and/or a classifier. Hetzler teaches an intelligence created configuration that is generated based on at least one of machine learning, a statistic, a probability, an inferences and/or a classifier (see col. 2, lines 63-67 and col. 3, lines 1-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include an intelligence created configuration that is generated

based on at least one of machine learning, a statistic, a probability, an inferences and/or a classifier because Montgomery, Jr., Romans, and Hetzler all teach managing power for wireless mobile terminals that can both receive and transmit wireless signals.

Regarding claim 25 Montgomery, Jr., Romans, and Hetzler teach a device as recited in claim 12 and is rejected given the same reasoning as above.

V.   Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery, Jr. (US 6,205,343 B1) in view of Romans (US 6,564,074 B2) and Loughran (US 7,185,211 B2).

Regarding claim 13 Montgomery, Jr. and Romans teach a device as recited in claim 1 except for an API that is utilized for at least one of invoking the power management component and providing a power management scheme. Loughran teaches an API that is utilized for at least one of invoking the power management component and providing a power management scheme (see col. 5, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include an API that is utilized for at least one of invoking the power management component and providing a power management scheme because Montgomery, Jr., Romans, and Loughran all teach managing power for wireless mobile terminals that can both receive and transmit wireless signals.

VI.   Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Montgomery, Jr. (US 6,205,343 B1) in view of Romans (US 6,564,074 B2) and Schneider et al.

(US 2005/0015618 A1).

[The Roy reference cited in the previous office action mailed on 5/28/2008 was incorrect and has been changed to

Schneider which properly corresponds to the reference name and paragraph used in the rejection of claim 26, in this office action

and the previous one.]

Regarding claim 26 Montgomery, Jr. teaches a system that facilitates wireless mobile

power management (see col. 4, lines 47-50). Montgomery, Jr. teaches determining when to

activate power management; acquiring a selective power management configuration; and

applying the power management configuration to selectively lower power applied to portions of

the wireless device to mitigate power consumption while maintaining full power to a CPU and a

network radio to ensure reliable uninterrupted network communication (see col. 4, lines 47-52

and col. 5, lines 1-7). Montgomery, Jr. does not specifically teach a wireless mobile barcode

scanner and wirelessly transmitting one or more control signals to the network radio of the

wireless mobile barcode scanner. Romans teaches the power management component controls

the power of the at least one portion of the wireless terminal by wirelessly transmitting one or

more control signals to the network radio of the wireless mobile terminal (see col. 3, lines 39-

50). It would have been obvious to one of ordinary skill in the art at the time the invention was

made to make the device adapt to include a configuration bank that stores power management

schemes and controlling the power of the at least one portion of the wireless terminal by

wirelessly transmitting one or more control signals to the network radio of the wireless mobile

terminal because both Montgomery, Jr. and Romans teach managing power for wireless mobile

terminals that can both receive and transmit wireless signals.

It would have also been obvious to one of ordinary skill in the art to make the device adapt to include a wireless barcode scanner as taught in Schneider (see Schneider, paragraph [0009]) because the functioning of a wireless mobile device can be implemented in a wireless barcode scanner.

VII.   Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery, Jr. (US 6,205,343 B1) in view of Romans (US 6,564,074 B2), Schneider et al. (US 2005/0015618 A1) and Hetzler (US 5,954,820).

Regarding claim 27 Montgomery, Jr., Romans, and Schneider teach a device as recited in claim 26 except for polling at least one disparate component associated with the wireless mobile terminal to determine frequency of use, the frequency of use employed to control a level of power to the disparate component. Hetzler teaches polling at least one disparate component associated with the wireless mobile terminal to determine frequency of use, the frequency of use employed to control a level of power to the disparate component (see col. 2, lines 63-67 and col. 3, lines 1-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include polling at least one disparate component associated with the wireless mobile terminal to determine frequency of use, the frequency of use employed to control a level of power to the disparate component because Montgomery, Jr., Romans, Schneider, and Hetzler all teach managing power for wireless mobile terminals that can both receive and transmit wireless signals.

Response to Arguments

VIII.   Applicant's arguments filed 8/28/2008 have been fully considered but they are not

persuasive.

Regarding claims 1, 14, and 19 the combination of Montgomery, Jr. and Romans teaches

a device as claimed. Regarding claim 26 the combination of Montgomery, Jr., Romans, and

Schneider teaches a device as claimed.

Specifically, the Montgomery, Jr. and Romans combination teaches selectively

controlling power to at least one portion of the wireless mobile terminal while maintaining power

to a central processing unit (CPU) and a network radio of the wireless mobile terminal to ensure

reliable uninterrupted network communication while removing power from other portions of the

wireless mobile terminal to reduce power consumption (see Montgomery, Jr., col. 4, lines 47-52

and col. 5, lines 1-7). Applicant has argued that these features are not taught by the

Montgomery, Jr. and Romans combination.

However, Montgomery, Jr. clearly teaches that operating power is removed from the

display during a transmit time that is imperceptible to the user of the radiotelephone handset (see

col. 4, lines 47-50 and col. 5, lines 1-7). The above teaching reads on the claimed selectively

control power to at least one portion of the wireless mobile terminal to reduce power

consumption because removing power is a form of power control and the display is at least one

portion of the wireless mobile terminal. The above teaching also reads on the claimed

maintaining power to a central processing unit (CPU) and a network radio of the wireless mobile

terminal because disclosing that the radiotelephone is transmitting to the system indicates that

the CPU and radio have power to communicate (see FIG. 1). Therefore, Montgomery, Jr.

teaches removing power from a portion of a wireless device while transmitting (communicating)

to the system and reads on a device as claimed.

In response to applicant's argument that the references cannot be combined, the test for

obviousness is not whether the features of a secondary reference may be bodily incorporated into

the structure of the primary reference; nor is it that the claimed invention must be expressly

suggested in any one or all of the references. Rather, the test is what the combined teachings of

the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that the examiner's conclusion of obviousness is

based upon improper hindsight reasoning, it must be recognized that any judgment on

obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392,

170 USPQ 209 (CCPA 1971).

IX.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Conclusion

X.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRANDON J. MILLER whose telephone number is (571)272-

7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/   /Brandon J Miller/
Supervisory Patent Examiner, Art Unit 2617   Examiner, Art Unit 2617
December 3, 2008